

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Martin F. BACHMANN *et al.*

Appl. No.: 10/563,944

§ 371 Date: May 31, 2006

For: **Packaged Virus-Like Particles**

Confirmation No.: 2922

Art Unit: 1648

Examiner: LE, Emily M.

Atty. Docket: 1700.0670000/BJD/WBC

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated June 18, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group I, represented by claims 1-2, 5, 10, 14-16, 33-34, 41, 47-48, 50, 52-55, and 64.

The aforementioned election of restriction group is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The election of Restriction Group I is made with traverse.

Applicants respectfully assert that division of the present claims is improper under 37 C.F.R. § 1.475 (a) and PCT Rules 13.1 and 13.2. According to 37 C.F.R. § 1.475 (a), "a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." Under PCT Rule 13.2, an alleged group of inventions claimed in a single application fulfill the unity of invention requirement of PCT Rule 13.1 when they share one or more of the same or corresponding special technical feature. The PCT International Search and Preliminary Examination Guidelines further provides following claim examples that share a special technical feature:

Example 1

Claim 1: A method of manufacturing chemical substance X.

Claim 2: Substance X.

Claim 3: The use of substance X as an insecticide.

Unity exists between claims 1, 2 and 3. The special technical feature common to all the claims is substance X.

Example 15

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

PCT International Search and Preliminary Examination Guidelines, Part III, Chapter 10.

In the present case, Groups I-II possess unity of invention because all of their respective claims contain reference to a common special technical feature: a composition for enhancing an immune response in an animal comprising a virus-like particle, an immunostimulatory nucleic acid, at least one antigen, and at least one toll-like receptor (TLR) ligand, wherein said immunostimulatory nucleic acid is packaged within said virus-like particle. For example, Group I is drawn to compositions with the common special technical feature; and Group II is drawn to methods of using the common feature. This common technical feature shared among Groups I-II makes the present case like the examples provided in PCT International Search and Preliminary Examination Guidelines, set forth above. Thus, all of the claims in Groups I-II, considered as a whole, represent a single general inventive concept and satisfy the unity of

invention requirement of PCT Rule 13.1. Accordingly, all of the claims in Groups I-II should be grouped and examined together.

Additionally, both groups can be examined without serious burden because a search of the art for the claims in Group I should find art also relevant to the claims of Group II. Hence, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

This traversal of the Restriction requirement should not be construed as a statement or an admission that the various groups and/or species identified by the Examiner are or are not patentably distinct.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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Date: July 18, 2008

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